

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**KOCH EXPLORATION COMPANY, LLC  
LAFOURCHE PARISH  
ALT ID NO. 1560-00204**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

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**\* ENFORCEMENT TRACKING NO.  
\* AE-PP-04-0040**

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**\* AGENCY INTEREST NO. 113010**

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**SETTLEMENT**

The following Settlement is hereby agreed to between Koch Exploration Company, L.L.C., (“KEC” or “Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

**I**

Respondent, a Limited Liability Company, and its predecessor, operated the Cut Off Production Field (“Field”) located near Cut Off, Lafourche Parish, Louisiana from October 4, 1999 until May 13, 2004, at which time KEC sold its interest in the Field to Whittier Energy Company, Inc., with an effective sales date of May 1, 2004. The Field operates under a Standard Oil & Gas Air Permit (“SOGA”), No. 1560-00204-00, issued on May 13, 2003, and an LPDES General Permit for the Coastal Waters of Louisiana (storm water), No. LAG330277, transferred from a former owner, Plymouth Resources Group, Inc., effective October 4, 1999. Under the permits, the Field operates four (4) oil wells, a tank battery, a saltwater disposal well, a compressor, and other associated equipment.

## II

The Respondent met with the Department on March 21, 2003 to voluntarily disclose that it had discovered, through the review of an independent environmental consulting firm, that it did not possess a necessary Part 70 Air Permit for the Field, and that shortly after discovery, the production wells at the Field were voluntarily shut in, effectively, but temporarily terminating operations. The Respondent also disabled two compressors and replaced these with a single low NO<sub>x</sub> emitting engine and turned off its saltwater disposal pump pending receipt of a SOGA. KEC applied for a permit on May 2, 2003 and the Department issued the SOGA on May 13, 2003.

## III

Thereafter, KEC continued its review of operations of the Field and, by letters dated April 9 and September 17, 2003, the Company provided voluntary disclosures of all issues identified during the review of operations. Both prior to and after submitting these letters, the Department met with Respondent to confer on the ongoing review.

## IV

On April 23, 2004, a Notice of Potential Penalty (“NOPP”) was issued to the Respondent, which was based on the following findings of fact:

On or about February 5, 2004, a file review of the Field, owned and/or operated by the Respondent, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and Air Quality Regulations. While the Department’s

investigation is not yet complete, the following violation was noted during the course of the review:

In a letter to the Department dated September 17, 2003, the Respondent explained that on March 19, 2003, it discovered that the facility was operating without an air permit. Upon obtaining this information, the Respondent shut in the facility on March 20, 2003, pending receipt of an appropriate air permit. The Respondent subsequently submitted an air permit application for the facility on May 2, 2003. Standard Oil and Gas Air Permit No. 1560-00204-00 was issued to the facility on May 13, 2003. The construction, modification, or operation of a facility which may ultimately result in an initiation or increase in emission of air contaminants prior to approval from the permitting authority is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

## V

The Respondent met with the Department on May 6, 2004, to discuss the completed review of operations, the violations, mitigating circumstances, and the penalty factors. The following areas of concern were noted during the course of the review:

- A. The Field constituted a major source prior to March 2003 and the Respondent's failure to obtain and operate under a Part 70 Air Permit is a violation of LAC 33:III.507.A.1.a, LAC 33:III.507.B.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act. The Department is authorized to implement the Clean Air Act Title V Operating Permits Program and has in place an EPA approved Part 70 permitting program. *See* 60 Fed. Reg. 47,296 (Sept. 12, 1995).

- B. From October 2001 to March 20, 2003, the Respondent vented excess field gas due to the loss of the use of a pipeline. Although estimates of actual calendar year emissions of volatile organic compounds (“VOCs”) never reached the 40 ton per year (“TPY”) significance threshold, calculations of potential to emit (“PTE”) using the MACT Rule for Oil and Gas Operations, 40 CFR Part 63, Subpart HH, showed a significant net emissions increase triggering New Source Review under the Prevention of Significant Deterioration (“PSD”) Rules. The failure to obtain a PSD permit is a violation of LAC 33:III.501.C.2, LAC 33:III.509.A.1 and R.1, and Sections 2057(A)(1) and 2057(A)(2) of the Act. EPA has delegated PSD permitting and enforcement to the Department pursuant to 40 CFR §52.986. *See* 52 Fed. Reg. 13,671 (April 24, 1987).
- C. The Respondent failed to submit Emissions Inventory Summaries (“EIS’s”) for the years 1999 through 2002. Each failure to submit an EIS is a violation of LAC 33:III.919.A.3 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- D. Although Respondent reported ongoing releases of NO<sub>x</sub> on March 27, 2003 to all reporting agencies, the Respondent failed to submit timely notifications of emissions of NO<sub>x</sub> in excess of the 10 lb. Reportable Quantity (“RQ”) prior to giving notice of the continuing violations. The failure to timely report emissions in excess of an RQ of NO<sub>x</sub> is a violation of 40 CFR 302.6(a), LAC 33:III.3917.A, LAC 33:III.3925.A, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- E. The Respondent did not timely transfer LPDES Permit No. LAG330277 from the prior owner/operator. Failure to timely transfer the storm water permit is a

violation of LAC 33:IX.2903.A.2.b, LAC 33:IX.2701.L.3, LAC 33:IX.2701.A, and Sections 2075 and 2076(A)(3) of the Act. EPA delegated the NPDES program to DEQ and approved of the Department's LPDES program, effective August 27, 1996. *See* 61 Fed. Reg. 47,932 (Sept. 11, 1996).

- F. The Respondent did not maintain storm water monitoring records at the Field or submit an annual Discharge Monitoring Report ("DMR") for the years 1999, 2000, 2001 and 2002. Failure to maintain storm water monitoring records and to submit annual DMRs is a violation of LPDES Permit No. LAG330277, Part II, Sections C.3 and D.4, LAC 33:IX.2701.A, LAC 33:IX.2701.J.2 and L.4, and Section 2076(A)(3) of the Act.
- G. The Respondent's Spill Prevention, Control and Countermeasures Plan ("SPCC") contained minor deficiencies. This is a violation of LAC 33:IX.905.A, LAC 33:IX.907 and Sections 2076(A)(1)(a) and 2076(A)(3) of the Act.
- H. Respondent failed to provide follow up reporting of two on site spills. These included a November 26, 2000 spill of 100 bbls of crude oil and 1,000 bbls of produced water and an August 15, 2002 spill of 1.5 bbls of crude oil. Though both spills were verbally reported on a timely basis and were immediately cleaned up, Respondent failed to provide the written follow up report. This is a violation of LAC 33:I.3925.A and Sections 2025(J)(2) and 2076(A)(3) of the Act.

## VI

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

## VII

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY-THREE THOUSAND, FOUR HUNDRED NINE AND 88/100 DOLLARS (\$23,409.88), of which ONE HUNDRED NINETY-FIVE AND 02/100 DOLLARS (\$195.02) represents DEQ's enforcement costs, and TWELVE THOUSAND FIVE HUNDRED NINETY THREE AND 88/100 DOLLARS (\$12,593.88) represents the monetary benefit of Respondent relative to the matters addressed herein, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

## VIII

Respondent further agrees that the Department may consider the inspection report(s), the NOPP and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## IX

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such

review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## X

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## XI

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Lafourche Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## XII

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

### XIII

In consideration of the above, any claims for penalties for any of DEQ's Findings of Fact, Areas of Concern, or other factual allegations described in this Settlement Agreement are hereby compromised and settled in accordance with the terms of this Settlement.

### XIV

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.



KOCH EXPLORATION COMPANY, LLC

BY: Dale G. Schlinsog  
(Signature)

Dale G. Schlinsog  
(Printed or Typed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 9<sup>th</sup> day of August, 20 04, at Englewood, CO.

Kay L. Poston  
NOTARY PUBLIC (ID #                     )  
Kay L. Poston  
(Printed or Typed)

My Commission Expires 11/03/2007

STATE OF LOUISIANA  
Mike D. McDaniel, Ph.D., Secretary  
Department of Environmental Quality

BY: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 17<sup>th</sup> day of December, 20 04, at Baton Rouge, Louisiana.

Christopher A. Ratcliff  
NOTARY PUBLIC (ID # 18675)

Christopher A. Ratcliff  
(Printed or Typed)

Approved: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary



CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

**State of Louisiana**

DEPARTMENT OF JUSTICE

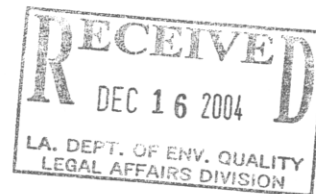
P.O. BOX 94005

**BATON ROUGE**

70804-9005

December 13, 2004

Mr. Louis E. Buatt, General Counsel  
La. Department of Environmental Quality  
Legal Affairs Division  
P.O. Box 4302  
Baton Rouge, LA 70821-4302



Re: AG Review of DEQ Settlement;  
Koch Exploration Company, LLC  
AE-PP-04-0040

Dear Mr. Buatt:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By:

  
CHARLES C. FOTI, JR.  
Attorney General

CCF/mlc